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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1290

COMMUNITY LOAN CORPORATION OF RICHMOND COUNTY,
Petitioner,

v.

JESSIE CODY, SALLIE MAE CODY, and all others similarly situated,
Respondents.

COMMUNITY LOAN & INVESTMENT CORPORATION OF AUGUSTA,
Petitioner,

v.

JAMES TOUCHSTONE, GLENDA TOUCHSTONE, INEZ SINGLETON, and all others similarly situated,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION

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Respondents.

RESPONDENTS' BRIEF IN OPPOSITION

The respondents respectfully request that this Court deny the petition for writ of certiorari, seeking review of the Fifth Circuit's opinion in this case. That opinion is reported at 606 F.2d 499.

QUESTIONS PRESENTED

Respondents are dissatisfied with petitioners' phrasing of the "Questions Presented".[1] The respondents recast those questions as follows:

1. Whether in Georgia, the McCarran-Ferguson Act is a bar to requirements of the Truth-in-Lending Act, where the financing and sales of cancer insurance policies to loan customers are handled by loan managers in their dual capacities as employees of the loan company and licensed agents of an insurance company.

2. Whether a loan company is required to make Truth-in-Lending "credit sale" disclosures for the financing and sales of cancer insurance policies by its loan managers.

3. Whether the Truth-in-Lending Act's pre-October-1974-penalty provisions authorize more than one penalty award on a single credit transaction involving multiple obligors in a class action.

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1 See Petition at 2-3.

STATUTES INVOLVED

The plaintiffs accept Community's statement of "Statutes Involved", and will refer to the text of the statutes and regulations by reference to the Appendices accompanying Community's petition, by the designation: "A". The plaintiffs add to the statutes and regulations in Community's appendices 15 U.S.C. §1640(a), as amended. The text of 15 U.S.C. §1640(a), as amended in 1974 and 1976, is set out in full below:

> (a) Except as otherwise provided in this section, any creditor who fails to comply with any requirement imposed under this chapter or chapter 4 or 5 of this title with respect to any person is liable to such person is an amount equal to the sum of --
> (1) any actual damage sustained by such person as a result of the failure;
> (2)(A)(i) in the case of an individual action twice the amount of any finance charge in connection with the transaction, or (ii) in the case of an individual action relating to a consumer lease under Chapter 5 of this title, 25 per centum of the

> total amount of monthly payments under the lease, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or
> (B) in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in such action shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the creditor; and
> (3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.
> In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of

compliance was intentional.
As amended Pub. L. 93-495, Title IV, §§406, 407, 408 (a)-(d), Oct. 28, 1974, 88 Stat. 1518; Pub. L. 94-222, §3(b), Feb. 27, 1976, 90 Stat. 197; Pub. L. 94-240, §4, Mar. 23, 1976, 90 Stat. 260.

STATEMENT OF THE CASE

The respondents are dissatisfied with the petitioners' "Statement of the Case" because of certain misleading statements and because the salient facts were omitted.

By stipulation of the parties, this case was submitted as though it had been tried to the court without a jury. The district court made Findings of Fact (A. C), none of which has ever been enumerated as error. The Fifth Circuit, in its opinion in this case, presented a "Factual Background" based on the district court findings. Cody, 606 F.2d at 501-502 (A. 40a-42a)

The following "Statement of the Case" consists of the "Factual Background" by the Fifth Circuit, in addition to one paragraph from the petitioners' "Statement of the Case".

Factual Background

Community Loan Corporation of Richmond County and Community Loan & Investment Corporation of Augusta (hereinafter "Community") are separately incorporated but share the same officers and board of directors. They are wholly-owned subsidiaries of Aristar, Inc., the parent corporation of a financial conglomerate that operates more than 400 loan offices in 26 states and owns the Diamond State Life Insurance Company and the Diamond State Agency. Community is a lender licensed under the Georgia Industrial Loan Act, Ga.Code Ann. §§ 25-301 *et seq.*

In 1972 Aristar developed a program to offer cancer insurance for sale in the loan offices of its subsidiaries. This insurance was to be issued by American Family Life Assurance Company and was to be offered in addition to the credit life, accident and health, and property insurance customarily written in connection with loan transactions.[2] The annual premium—$40 on an individual policy, $60 on a family policy—was to be paid by Community to American Family out of the proceeds of the loan. Pursuant to a brokerage agreement between American and Diamond State Agency, for each cancer policy sold in the loan office, 50% of the premium would be returned in the form of a sales commission to Diamond State Agency. Of that amount, $10 or $12 would be disbursed to the loan manager who sold the insurance policy and $2 or $5 to his district supervisor. Diamond State Agency also received a $2 application fee and a $2.40 credit toward the purchase of American Family stock for each cancer policy sold.

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[2] Aristar officials recognized that their small loan customers were a potential "captive market," Record at 191, and one memorandum projects an annual gross of more than $1.5 million. *Id.* at 188.

Despite some initial qualms about selling these "CancerCare" policies,[3] Aristar and Community decided to implement the sales program on an experimental basis in Georgia and South Carolina. The program was arranged by Diamond State Life Insurance Company and American Family, with Diamond State to oversee the licensing of Community's loan managers and to ensure compliance with state insurance regulations. Community's loan managers eventually became licensed insurance agents of American Family, and the Georgia sales program was instituted in January 1973. The South Carolina program never got off the ground, apparently because of licensing difficulties.

The program was temporarily halted in April 1973, apparently because of the sales techniques of some overzealous loan managers who added the price of the cancer policy to the loan without the borrower's knowledge or consent. Internal correspondence indicates attempts to correct this practice,[4] and the sales program was reinstated in July. However, it was terminated in early 1974.

Plaintiffs Jessie and Sallie Mae Cody, James and Glenda Touchstone, and Inez Singleton were Community customers who applied for loans in February and March 1973. While

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[3] Some Aristar officials feared customer dissatisfaction because of the policy's limited benfits. The company was also aware that many states prohibit the sale of cancer insurance.

[4] For example, a Community vice-president wrote certain Georgia supervisors on March 20, 1973, about cancer insurance sales. The letter reads in pertinent part:

> We have been advised by Mr. Beck with American Family Life Assurance Company of Columbus (CANCER CARE) that his company is receiving complaints from our customers.
>
> It seems we are guilty of not selling the policies, but instead are adding them on the loan without the customer's knowledge or consent.
>
> THIS PRACTICE MUST BE STOPPED IMMEDIATELY. We must have the customer's consent, and he must be aware of the cost, benefits, and amount of yearly premiums.

R. at 221.

handling the loan applications, Community's loan managers, acting as agents of American Family, sold the plaintiffs CancerCare policies. Each plaintiff signed a loan contract and a separate application for cancer insurance, although the record strongly suggests that they did not know they were purchasing the cancer insurance. The first year's premium was deducted from the loan proceeds and was indicated as a disbursement to the customer and American Family. Community then issued checks payable to American Family and the customer, and the insurance applications and checks were forwarded to American Family for approval and issuance of the policies.

The plaintiffs brought suit on behalf of themselves and others similarly situated, alleging violations of TIL's credit sale disclosure requirements, 15 U.S.C. § 1638(a); 12 C.F.R. § 226.8(c). They sought the statutory penalty and attorneys' fees allowed under 15 U.S.C. § 1640(a). The district court certified the cases as class actions and, by stipulation of the parties, they were submitted as though they had been tried to the court without a jury. The court ultimately entered judgment for plaintiffs, and Community appealed.

Upon appeal to the Fifth Circuit Court of Appeals, this case was consolidated for argument with two similar cases, *Cochran* v. *Paco, Inc.*, 606 F.2d 460 (5th Cir. 1979), and *Perry* v. *Fidelity Union Life Insurance Co.*, 606 F.2d 468 (5th Cir. 1979). The opinions in the three cases appear in sequence in the Federal Reporter, all having been decided by the same three-judge panel on the same day. Chief Judge Brown concurred in the result in *Cochran*, but dissented in *Perry* and in this case. The opinions of the court of appeals in *Cochran* and *Perry* are printed as Appendices P and Q, respectively.

REASONS FOR DENYING THE WRIT

I. THE McCARRAN-FERGUSON ACT (MFA) ISSUE.

The McCarran-Ferguson Act (MFA) question on which Community is seeking certiorari is the meaning of the phrase "business of insurance" in §2(b) of that Act. (Pet. 2; A. G) The three reasons proffered by Community in support of this request are: One, this case created an intercircuit conflict on the issue. (Pet. 6) Two, the Fifth Circuit's decision was incorrect, having misapplied this Court's prior decision(s). (Pet. 7) And three, the issue is significant. (Pet. 19)

The plaintiffs will show below that certiorari should be denied.

A. Any Intercircuit Conflict Created By This Decision On The Meaning Of The Phrase "Business Of Insurance" Is Not A Basis For Granting Certiorari Since, Subsequent Thereto, This Court Rendered Its Opinion On That Issue.

In 1976, the Seventh Circuit ruled that the phrase "business of insurance" in the MFA included the Truth-in-Lending (TIL) type of disclosures required to be made in the consumer financing of the sale of insurance policies. Lowe v. Aarco-American, Inc., 536 F.2d 1167 (7th Cir. 1976) The Lowe court attributed an expansive meaning to the phrase "business of insurance".

In early January of 1979, the Fifth Circuit ruled on the meaning of the phrase "business of insurance" in the MFA. This was done in three TIL cases which had been consolidated for argument. These three cases are: Cochran v. Paco, Inc., 606 F.2d 460 (5th Cir. 1979) (A. P); Perry v. Fidelity Union Life Ins. Co., 606 F.2d 468 (5th Cir. 1979) (A. Q); and the instant case, Cody v. Community Loan Corporation, 606 F.2d 499 (5th Cir. 1979) (A. O). The Federal Reserve Board filed an amicus brief in the Perry and Cochran cases, arguing that the financing of insurance premiums was not the "business of insurance".

The Fifth Circuit, contrary to the Seventh Circuit Lowe case, held that the financing of cancer insurance premiums by a loan company is activity "purely ancil-

lary to the insurance relationship between the insurance company and the policyholder" and therefore not the "business of insurance" as that term is used in the MFA. Cody, 606 F.2d at 503 (A. 44a)

The analyses for these three Fifth Circuit decisions were developed in the Perry and Cochran opinions. Both of these opinions relied on the 1977-Fifth-Circuit-MFA case of Royal Drug Co. v. Group Life & Health Ins. Co., 556 F.2d 1375 (5th Cir. 1977). Perry, 606 F.2d at 470 (A. 171a-172a); Cochran, 606 F.2d at 467 (A. 164a-165a)

The Fifth Circuit Royal Drug case had held that "an activity is not a part of the business of insurance solely because it has an impact, favorable or otherwise, upon premiums charged by the insurer". (556 F.2d at 1386) That case further held that "business activities of insurance companies not peculiar to the insurance industry are outside the scope of the McCarran Act". 556 F.2d at 1386

These Fifth Circuit cases--Perry, Cochran, Cody and Royal Drug--placed a narrower meaning on the phrase "business of insurance" than did the Seventh Circuit Lowe case.

Well before the issuance of the Fifth Circuit decisions in Perry, Cochran and Cody, this Court had granted certiorari in the Fifth Circuit Royal Drug case because of intercircuit conflicts as to the meaning of the phrase 'business of insurance' in §2(b) of the Act". Group Life & Health Ins. Co. v. Royal Drug Co., Inc., 440 U.S. 205, 208 (1979) ("Royal Drug") Within two months of the issuance of the Fifth Circuit Cody, Perry and Cochran decisions, this Court rendered its opinion affirming the Fifth Circuit Royal Drug decision. 440 U.S. 205

Accordingly, Community's request for certiorari because of an intercircuit conflict between Cody and Lowe is not a basis for granting certiorari, since: 1) there is no longer an intercircuit conflict, 2) further guidance on the meaning of the phrase "business of insurance" by this Court would be untimely, and 3) the issue presented is not of sufficient importance.

1. No longer an intercircuit conflict. This Court's opinion in Royal Drug applied a narrower meaning to the phrase "business of insurance" than was applied in the Seventh Circuit Lowe case. (440 U.S. at 211, 215-216) The instant case, however, is in

accord with this Court's Royal Drug opinion.

In light of the above, the Seventh Circuit Lowe decision no longer has vitality as a case creating an intercircuit conflict on the meaning of the phrase "business of insurance".

2. Further guidance on the meaning of the phrase "business of insurance" by this Court in the instant case would be untimely. Any further guidance by this Court on the meaning of the phrase "business of insurance" should await the refinements of arguments and authorities by post-Royal Drug district and circuit courts.

Not only would review be untimely because of this Court's intervening Royal Drug decision, it would be premature as a general matter. This is so because the only intercircuit conflict asserted by Community is between two circuits: the Fifth and Seventh. This Court should await the decision of other circuits.

For these reasons, this court should allow the issue--assuming arguendo, that an "issue" remains after Royal Drug--to ripen.

3. The issue presented is not of sufficent importance for this Court to grant certiorari. To the extent that guidance

on the meaning of the phrase "business of insurance" is important to the overall structure of the law, the principles set out in this Court's Royal Drug opinion addressed that need. Any application by this Court of those principles to the highly peculiar facts of the instant case would do little toward that end. And, since Community has terminated its cancer insurance financing (A. 21a), even a reversal would provide only limited benefits to it.

B. The Fifth Circuit Properly Applied The Applicable Decisions Of This Court.

As part "II" of its "Reasons For Granting The Writ", Community argues the merits, contending that the Fifth Circuit decision misapplied this Court's decision in SEC v. National Securities, Inc., 393 U.S. 453 (1969) (Pet. 7).

Community's summary of the purported misapplication of National Securities is: "the first inquiry that the lower court should have made is whether the state laws on which Community relied were 'enacted... for the purpose of regulating the business of insurance'". (Pet. 10)

1. The "first inquiry" in National Securities presented the question put by the

Fifth Circuit in the instant case: "Whether the activity in question is the 'business of insurance'". Community has misstated the "first inquiry" in the National Securities case. In National Securities, this Court stated:

> The first question posed by this case is whether the relevant Arizona statute is a "law enacted ... for the purpose of regulating the business of insurance within the meaning of the McCarran-Ferguson Act".

393 U.S. at 457 (emphasis added)

The "first inquiry" in National Securities was couched in terms of a "relevant" statute. To be a "relevant" state statute, the state must regulate the particular activity in question. Arizona had passed a comprehensive insurance code, but the only "relevant" portions in National Securities were the portions which applied to the particular activity in question. (393 U.S. at 460) This Court, in National Securities, also referred to such a "relevant" statute as an "applicable" statute. 393 U.S. at 462

In the instant case, there is no "relevant" or "applicable" statute.

Community has never contended that the Georgia Insurance Code or regulations (A. K-O) govern the financing of insurance premiums. Nor has Community contended that those laws govern TIL-type disclosures. In fact, Community concedes that the only Georgia statute or regulation governing premium financing--the Georgia Insurance Premium Finance Company Act (A. J)--has no application to the transactions in the instant case, since the statute not only fails to apply to insurers authorized to do business in Georgia, it does not even cover the type of insurance in this case: ordinary cancer insurance. (Pet.10 n.6)

2. The activity in question in the instant case is not the "business of insurance". The activity in question in the instant case was the financing of the premiums for the sale of cancer insurance. This financing was handled by the loan managers of the loan company. These loan managers had a dual capacity. One capacity included handling the financing of practically any consumer goods that a borrower might purchase. In this capacity, the loan manager was acting on behalf of the loan company as an extender of credit.

The cancer insurance company was not involved in the extension of credit by the loan company. Cody, 606 F.2d at 501, 503 (A. 40a-44a)

This financing activity by the loan company did not involve any "underwriting or spreading of risk". (Royal Drug, 440 U.S. at 211,214) Such underwriting and spreading of risk is the "core" of the "business of insurance" to which the MFA applies. (National Securities, 393 U.S. at 406) Nor does such financing activity "relate so closely to the [insurance companies'] status as reliable insurers" as to be within the "business of insurance" under the MFA. (National Securities, 393 U.S. at 458; Royal Drug, 440 U.S. at 215-217) Furthermore, since the financing relationship was not between the insurance company and the policyholder, the MFA is inapplicable. Royal Drug, 440 U.S. at 215-216; Cochran, 606 F.2d at 467 (A. 165a); for the express concurrence by Judge Brown see Perry, 606 F.2d at 484 n.35 (A. 201a n.35)

II. THE TRUTH-IN-LENDING ACT (TILA) ISSUES.

Community seeks certiorari on two Truth-in-Lending (TIL) issues.

A. The TIL "Credit Sale" Issue.

The first TIL issue upon which Community is seeking certiorari is: Whether the Fifth Circuit erred in holding that "credit sale" disclosures were required. (Pet.2-3)

The two reasons proffered by Community in support of its request for certiorari on this issue are: One, the Court of Appeals' decision overlooked a specific provision of Regulation Z of the Federal Reserve Board. (Pet. 15) Two, the issue is significant. (Pet. 19, 20)

The plaintiffs will show below that certiorari should be denied.

1. The Court of Appeals' decision did not overlook a specific provision of Reg. Z. Community argues that the Fifth Circuit overlooked a specific provision of Reg. Z in deciding the instant case. (Pet. 15) In particular, Community points out that it made the following disclosure on the loan document:

> Check payable to American Family Life Insurance Comp.....$60.00

(Pet. 15)

From this, Community makes a two-step argument: First, that this disclosure was in compliance with the disclosures required for loans under 12 C.F.R. §226.8(d)

(1) of Reg. Z. (A. 84a) Second, that for the Fifth Circuit to have held Community liable for violation of TIL, it must have "overlooked" §226.8(d)(1) of Reg. Z.

Community is incorrect. To the contrary, the Fifth Circuit expressly assumed that Community complied with all loan disclosure requirements, including §226.8(d)(1) of Reg. Z. (Cody, 606 F.2d at 502 n.6, 503) (A. 42a n.6,44a) Therefore, there is no basis for granting certiorari on this TIL issue.

2. A decision by this Court on the unique "credit sale" issue presented in this case would not add significantly to the body of TIL law and is not ripe for decision. This case involves a complex fact pattern which gave rise to a scheme under which Community merchandised policies of cancer insurance to an unsophisticated, unsuspecting class of consumers. Community, the petitioning loan company, had a captive market with its small loan customers. Not being content to accept the high rates of interest, fees and credit insurance premiums allowed under the Georgia Industrial Loan Act (Ga. Code §25-301 et seq.), Community devised yet one more method to exact even

higher charges from its customers: the credit sale of an ordinary cancer insurance policy. This highly unusual practice was successful as to the named plaintiffs, because the cost of the cancer insurance policy was hidden among all the other disbursements made by Community on loan disclosures. Cody, 606 F.2d at 501-502 (A. 40a, 42a)

The essence of this case is that proper "credit sale" disclosures, as required by TIL, would have made the credit purchase of a cancer insurance policy obvious to a customer. If Community had complied with TIL, sales of the cancer policies would, most likely, have been made only to those customers actually desiring to purchase such insurance coverage. As the district court found, this type of violation "lies at the heart of the policies behind Truth-in-Lending". (A. 26a)

There is no basis for granting certiorari on this issue. The complex fact pattern of this case gave rise to a highly unusual practice which presented an issue on which there are no other circuit cases. Without other decisions on this "credit sale" issue, that issue is not ripe for review by this Court. Nor is it

sufficiently important to the over-all structure of the law, or to the development of TIL law, for this Court to grant certiorari.

3. The Court of Appeals' decision is correct and in accord with this Court's recent TIL decision. Community's dual function of merchandising the cancer policies and extending credit for the purchase, is a loan and cash sale for state-law purposes. However, for purposes of TIL, Community made a "credit sale".

A "credit sale" for TIL purposes is expressly defined by statutory and regulatory provisions. (A. H) Under 15 U.S.C. §1602(g) and 12 C.F.R. §226.2(t),the term "credit sale" is defined as "any sale with respect to which credit is extended or arranged by the seller". (A. 70a) The sale of insurance is clearly a "sale" within this definition; and Community admittedly "extended" credit to the purchasers of the cancer insurance policies. The only question that the Fifth Circuit had to decide was whether Community was a "seller" within the meaning of 1602(g). The Fifth Circuit found four separate grounds upon which Community should be characterized as a "seller" for purposes of

TIL. Cody, 606 F.2d at 505-507 (A. 49a-53a) This Fifth Circuit decision concurs with a Federal Reserve Board letter covering the sale and financing of non-credit insurance by an insurance agent. (A. 4a n.2) That FRB letter states:

> This responds to your letter of August 7, 1969 and to ***'s of September 8, 1969, both of which inquired as to what type of disclosures an insurance broker or agent who handles the insurance and finances the premium could make. In our opinion, an insurance agent is selling insurance. Consequently, when he also provides consumer credit for premium financing, he is making a credit sale under §226.2(n) [now §226.2(t)] and disclosures under §226.8(b) and (c) would be required.

CCH Consumer Credit Guide ¶30,257 (transfer binder) (excerpts from FRB letter of January 5, 1970, No. 225 by Frederic Solomon, Director) (emphasis added) (A. 4a n.2) Accordingly, this Fifth Circuit decision is in full accord with this Court's recent

TIL decision which held that such FRB letters should be followed by the courts. Ford Motor Credit Company v. Milhollin, _____U.S. _____, 100 S.Ct. 709 (1980)

B. The TIL "Penalties" Issue.

The second TIL issue upon which Community is seeking certiorari is: Whether the TILA's pre-October-1974-penalty provisions authorize more than one penalty award on a single credit transaction involving multiple obligors in a class action. (Pet. 3)

The plaintiffs will show below that certiorari should be denied.

1. The issue presented is not of sufficient importance for this Court to grant certiorari since Congress subsequently amended the TIL penalty provision as to class actions. The TIL issue is controlled by a prior version of 15 U.S.C. §1640(a), which prescribed the applicable TIL penalty in individual, as well as,class actions. The text of that provision is set out at A.76a.

Under the version of 15 U.S.C. §1640(a) in effect when this suit was brought, a creditor in a consumer credit transaction who fails to disclose to any person any information required to be disclosed is

liable to that person for an amount ranging from $100 to $1000--based on twice the finance charge. Cody, 606 F.2d at 507 (A. 54a-55a) The district court below certified a class and held that each plaintiff/obligor was entitled to a separate minimum penalty of $100. Cody, 606 F.2d at 502, 507-508 (A. 42a, 54a-55a)

The TIL penalty provision was amended in 1974 and 1976. This provision, as amended, is set out under "Statutes Involved" at pages 3-5, supra, of plaintiffs' brief.

These amendments altered the penalty provisions, especially as they affect class actions. Under the amendments, a district court is given broad flexibility. For example, in a class action, a district court may award "such amount as the court may allow" with an overall ceiling. 15 U.S.C. §1640(a)(3). Furthermore, in determining the amount of award in any class action, the court is to "consider among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failure of compliance by the creditor, the resources of the creditor, the number of persons adversely affected,

and the extent to which the creditor's failure of compliance was intentional". 15 U.S.C. §1640(a)(3)

This judicial flexibility for penalties in class actions, however, does not apply in the instant case. This is so because the parties to this case stipulated that the amendments were not applicable to this action. Cody, 606 F.2d at 507 n.17 (A. 54a n.17)

In light of the amendments, this issue is not of sufficient importance for this Court to grant certiorari. The instant case is probably the only pending case involving the issue of the proper construction of the pre-October-1974-penalty to a class action.

Additionally, the issue of whether the TIL penalty, as amended, provides for multiple liability in an individual action would be better addressed in an individual action than in this class action. And, the argument that the creditors are in need of a resolution to this issue, is specious. A creditor might modify its disclosures or other conduct based on a decision by this Court as to matters which might prevent its liability. But it cannot be seriously

argued that a creditor would alter its conduct based on a decision of this Court that its liability is, for example, $100 on a transaction, rather than $200 (i.e., $100 to the husband and $100 to the wife). If the creditor was actually inclined to change its practices, it could avoid the problem by only having one spouse become obligated on a transaction.

III. CONCLUSION

For the reasons stated above, the petition for a writ of certiorari should be denied as to all issues.

Respectfully submitted,

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